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EXAMINER	
ROSEN, NICHOLAS D	

ART UNIT	PAPER NUMBER
3625	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/800,444	CHU ET AL.	
	Examiner	Art Unit	
	Nicholas D. Rosen	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-56* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-56* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner. Approved by Draftsperson

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *See Continuation Sheet*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :3/15/2004, 10/24/2005, and 2/15/2006.

DETAILED ACTION

Claims 1-56 have been examined.

Claim Objections

Claim 16 is objected to because of the following informalities: In the second and third lines, "associated per-hit fees" should be "associated with per-hit fees". Appropriate correction is required.

Claims 49-56 are objected to because of the following informalities: In the fifth line of claim 49, "wherein all listings within the response do not belong to the tier" should be "wherein not all listings within the response belong to the tier". Furthermore, in claim 53, the phrase "said priority metric calculations" technically lacks antecedent basis, since the claim first recites "priority metric calculation" in the singular; "calculations" is also found in claim 54. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 15, 36, and 37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use

the invention. Each of claims 15 and 36 recites the word "catkey"; claim 37 depends on claim 36. The specification does not define or describe the term "catkey", nor does the prior art of record make clear what is meant by term.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "said priority metric" in the second line. There is insufficient antecedent basis for this limitation in the claim, because the first line of claim 2 recites "a plurality of priority metrics". It is unclear whether the second line is intended to recite that the administrative subsystem uses "said plurality of priority metrics" or "one of said plurality of priority metrics".

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 recites the limitation "said plurality of responses" in the third and fourth lines. There is insufficient antecedent basis for this limitation in the claim. Furthermore, the verb of which "only said listings possessing a national tiers" is presumably intended to be the subject is missing. Yet further, " a national tiers" should presumably be "national tiers"; and yet further, it is not clear whether "and a third, tier, and a fourth tier"

is a typographical error for "a third tier, and a fourth tier", or an attempt to recite something else. Claim 19 is so far in violation of the requirements of 35 U.S.C. 112, second paragraph, that the claim could not be searched, nor prior art applied to determine whether the claimed invention is anticipated, obvious, or potentially allowable.

Claims 15, 36, and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 15 and 36 each recite that the system comprises a catkey, and claim 37 depends on claim 36. As the term "catkey" is not defined, these claims are indefinite. Claims 15, 36, and 37 are so far in violation of the requirements of 35 U.S.C. 112, second paragraph, that the claim could not be searched, nor prior art applied to determine whether the claimed invention is anticipated, obvious, or potentially allowable.

Claims 38-47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 38 recites the limitation "said tier" in the twelfth line. There is insufficient antecedent basis for this limitation in the claim, since the prior reference is to a "plurality of tiers" (fourth line). Also, "said tier" is used in claim 41, 42, 43, and 44; and yet further, it is odd to speak of a server including a request, a response, a plurality of tiers, etc., rather than mans for receiving a request, sending a response (claim 39, lines 4-6). Arguably, the server can be regarded as including a request which it has received, a

response which it is about to transmit, etc., this sense is taken for comparison with the prior art.

Claim 48 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 48 recites the limitation "said tier" in the ninth line, and again in the tenth line. There is insufficient antecedent basis for this limitation in the claim, because claim 48 recites "a plurality of tiers" in the seventh and eighth lines, and it is unclear whether the ninth line is intended to recite that the administrative subsystem identifies listings for inclusion within each of the plurality of tiers, or only at least one of the plurality of tiers.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 3, 4, 5, 10, 14, 22, 23, and 31

Claims 1, 4, 5, 10, 13, 14, 22, 23, and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Soulanille et al. (U.S. Patent 7,110,993). As per claim 1, Soulanille discloses an information distribution system, comprising: a user subsystem, said user subsystem providing for a request and a response, wherein said user subsystem

provides for receiving said request and providing said response (Abstract; column 8, line 59, through column 9, line 6); a listing subsystem, said listing subsystem proving for a plurality of listings, wherein at least a subset of said listings are included in said response (Abstract; column 9, lines 7-20); and an administrative subsystem, said administrative subsystem providing for a tier, wherein said administrative subsystem selectively identifies two or more listings within said response for inclusion in said tier, wherein said listings within said tier are ordered in accordance with at least one of: (a) a random heuristic; (b) a weighted random heuristic; and (c) a placement heuristic not applied to all of the listings in said response (Abstract; column 9, lines 7-20; column 21, line 59, through column 22, line 50).

As per claim 4, Soulanille discloses a plurality of tiers (Abstract; column 9, lines 7-20; column 16, line 57, through column 17, line 23; column 21, line 59, through column 22, line 50; Figure 7). (The paid listings from advertisers are regarded as one tier; the unpaid listings following them as a second tier.)

As per claim 5, Soulanille discloses that said listings within each tier are ordered in accordance with at least one of: (a) a random heuristic; (b) a weighted random heuristic; and (c) a placement heuristic (ibid., as cited in claim 4).

As per claim 6, Soulanille discloses that each listing in said response is included in one of said plurality of tiers (ibid., as cited in claim 4).

As per claim 10, Soulanille discloses a plurality of groups, wherein said response includes said plurality of groups, wherein each said listing in said response is associated with at least one said group, and wherein said listings belonging to said tier

belong to the same said group (ibid., as cited in claim 1; also Figure 7; and column 16, line 57, through column 17, line 23). (The groups may be taken as the group of paid listings and the group of unpaid listings.)

As per claim 13, Soulanille discloses a plurality of payment type attributes, wherein each said listing in said response is associated with at least one payment type attribute (Figure 7; column 16, line 57, through column 17, line 23).

As per claim 14, Soulanille discloses that each said listing in said tier shares the payment type attribute (Figure 7; column 16, line 57, through column 17, line 23).

As per claim 22, Soulanille discloses a position adjustment factor wherein at least one listing includes said position adjustment factor, **as per claim 23**, at least one listing that includes the position adjustment factor being included in the tier (column 21, line 51, through column 22, line 50).

As per claim 31, Soulanille discloses a per-hit fee, wherein at least one listing in the response is associated with the per-hit fee (column 11, lines 54-67; column 16, line 57, through column 17, line 23; column 19, line 53, through column 20, line 13; column 21, line 51, through column 22, line 50; Figure 7).

Claims 2 and 3 are rejected under 35 U.S.C. 102(e) as anticipated by Soulanille et al. (U.S. Patent 7,110,993), or, in the alternative, under 35 U.S.C. 103(a) as obvious over Soulanille et al. (U.S. Patent 7,110,993) in view of official notice. As per claim 2, Soulanille discloses a plurality of priority metrics, wherein the administrative subsystem uses at least one priority metric to selectively identify the listings for inclusion in the tier (column 21, line 51, through column 22, line 50). If claim 2 is read as requiring that all

of the plurality of priority metrics be used together to selectively identify the listings for inclusion in the tier, official notice is taken that it is well known to make selections based on multiple factors together (as Soulanille can be read as doing). Hence, doing so would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention, for the obvious advantage of taking multiple relevant factors into account in assembling listings for the tier.

As per claim 3, Soulanille discloses a plurality of rankings, wherein the administrative subsystem uses said rankings to selectively identify the subset of listings for inclusion in the tier (Figure 7; column 16, line 57, through column 17, line 23; column 21, line 51, through column 22, line 50).

Claim 48

Claim 48 is rejected under 35 U.S.C. 102(e) as being anticipated by Soulanille et al. (U.S. Patent 7,110,993). Soulanille discloses an information distribution system, comprising: a user subsystem, said user subsystem providing for a request and a response, wherein said user subsystem provides for receiving said request and providing said response (Abstract; column 8, line 59, through column 9, line 6); a listing subsystem, said listing subsystem proving for a plurality of listings, wherein at least a subset of said listings are included in said response (Abstract; column 9, lines 7-20); and an administrative subsystem, said administrative subsystem providing for a tier, wherein said administrative subsystem selectively identifies two or more listings within said response for inclusion in a tier, wherein said listings within said tier are ordered in accordance with at least one of: (a) a random heuristic; (b) a weighted random heuristic;

and (c) a placement heuristic not applied to all of the listings in said response (Abstract; column 9, lines 7-20; column 16, line 57, through column 17, line 23; column 21, line 59, through column 22, line 50; Figure 7). The paid listings from advertisers are regarded as one tier, the unpaid listings following them as a second tier.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 7-9, 11, 12, 16-18, 20, 21, 24-30, and 32-35

Claims 7, 8, 9, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soulanille et al. (U.S. Patent 7,110,993) as applied to claim 1 above, and further in view of Might et al. (U.S. Patent Application Publication 2003/0177076).

As per claim 7, Soulanille discloses a category selection (near the top of Figure 7), but does not expressly disclose that the request includes the catalog selection, and that the selective identification of the subset of listings is influenced by said category selection (although this could be regarded as implied, because why else have a category selection feature in the webpage?), but Might teaches identifying a subset of listings based on a category selection (paragraphs 19 and 27). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the request to include the catalog selection, and for the selective identification of the subset of listings to be influenced by said category selection, for the obvious advantage of finding businesses selling desired products or services.

As per claim 8, Soulanille discloses a geography selection (near the top of Figure 7), but does not expressly disclose that the selective identification of the subset of listings is influenced by said geography selection (although this could be regarded as implied, because why else have a geography selection feature in the webpage?), but Might teaches identifying a subset of listings based on a geography selection (paragraphs 19 and 27). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the selective identification of the subset of listings to be influenced by said geography selection, for the obvious advantage of finding conveniently located businesses selling desired products or services.

As per claim 9, this is at least as obvious as claim 7, for the reasons set forth above in regard to claim 7.

As per claim 11, Soulanille does not disclose a plurality of geography attributes and a plurality of category attributes, wherein each said listing in the response is associated with at least one said geography attribute and at least one said category attribute (although Figure 7 in Soulanille shows means for selecting at least one said geography attribute and at least one said category attribute), but Might teaches associating listings in a response with geography attributes and/or category attributes (paragraphs 19 and 27). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for each said listing to be associated with at least one said geography attribute and at least one said category attribute, for the obvious advantage of finding businesses conveniently located and selling desired products or services.

As per claim 12, Might likewise teaches that listings share geography and/or category attributes (paragraphs 19 and 27). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for each listing in the tier to share said geography attribute and said category attribute, for the obvious advantage of finding businesses conveniently located and selling desired products or services.

Claims 16 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soulanille et al. (U.S. Patent 7,110,993) as applied to claim 1 above, and further in view of Corn et al. (U.S. Patent Application Publication 2004/0167856). As per claim

16, Soulanille discloses a plurality of per-hit fees (e.g., Figure 7; column 16, line 57, through column 17, line 23). Soulanille does not expressly disclose that there is a minimum bid amount and all listings within the tier are associated with per-hit fees that exceed said minimum bid amount (although the example of Figure 7, where all listings in the tier are associated with per-hit fees that exceed an apparent minimum of $0.01, is highly suggestive), but Corn teaches a minimum bid amount, such that listings would all exceed the minimum bid amount (Abstract; paragraphs 6-10). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have such a minimum bid amount, for the stated advantages of increasing revenue, and better enabling a commercial search marketplace to represent multiple markets.

As per claim 24, Soulanille discloses a plurality of fees and a minimum fee, at least in the sense that no fee shown is smaller than the minimum of $0.01 per hit (Figure 7; column 16, line 57, through column 17, line 23). Soulanille further discloses, "Preferably, unpaid listings are displayed if there are an insufficient number of listings to fill the 40 slots in a search results page," (column 17, lines 15-17), implying that if there are a sufficient number of listings, each listing may be associated with a fee. Corn teaches a minimum bid amount, such that listings would all exceed the minimum bid amount (Abstract; paragraphs 6-10). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have such a minimum fee, for the stated advantages of increasing revenue, and better enabling a commercial search marketplace to represent multiple markets.

Claims 17, 18, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soulanille et al. (U.S. Patent 7,110,993) as applied to claim 1 above. As per claim 17, in the system of Soulanille, different users, or the same user, can make different search requests, and receive different responses (implied throughout, e.g., column 8, line 59, through column 9, line 20), and Soulanille discloses a first response including a tier of paid listings (Figure 7; column 16, line 57, through column 17, line 23; column 21, line 59, through column 22, line 50). Soulanille does not disclose a second response not including a tier of paid listings, but in the case of someone requesting results on a search term for which no advertiser had bid, such a tier would be absent, and presumably only unpaid listings (as disclosed in column 17, lines 15-23) would be displayed. It is further noted that a second response, responding to a different request, even if it did include a tier of paid listings, would not include the same set of paid listings, and in that sense, would not include "said tier."

As per claim 18, given the ability of users in the system of Soulanille to enter different search requests, searching on different search terms, such first and second request corresponding to first and second results follow.

As per claim 26, Soulanille discloses a plurality of tiers and a means for selecting a category (Figure 7; column 16, line 57, through column 17, line 23; column 21, line 59, through column 22, line 50), and a plurality of sponsors who may be national sponsors (ibid.; Figure 7 shows online merchants whose reach appears to be national if not international), as well as a common category, in a sense, shared by the sponsors (ibid., the category being zip drives). Soulanille does not expressly disclose that the response

is comprised entirely of listings associated with the group of national sponsors sharing the common category, because in Figure 7, not all of the listings are sponsored listings, but Soulanille discloses, "Preferably, unpaid listings are displayed if there are an insufficient number of listings to fill the 40 slots in a search results page," (column 17, lines 15-17), implying that when there was a sufficient number of paid listings, only paid, sponsored listings would be displayed.

As per claim 27, Soulanille discloses a tier including three listings (Figure 7).

Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soulanille et al. (U.S. Patent 7,110,993) as applied to claim 1 above, and further in view of Littlefield et al. (U.S. Patent 6,564,208). As per claim 20, Soulanille does not disclose an enhanced display format, wherein at least one said listing in said response includes said enhanced display format, but Littlefield teaches enhanced display formats, wherein at least one listing in a response includes the enhanced display format (column 3, line 58, through column 4, line 20). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention, for the stated advantages of enticing search engine users to select the search results with enhanced display formats, and profiting from fees for such enhanced displays.

As per claim 21, given listings with an enhanced display format, it would be obvious for such listings to be in the tier, the reasons set forth above in regard to claim 20 being applicable.

Claims 25, 28, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soulanille et al. (U.S. Patent 7,110,993) as applied to claim 1 above,

and further in view of official notice. As per claim 25, Soulanille discloses a per-hit fee type, a plurality of per-hit fee values, wherein at least two listings in a response are associated with the per-hit fee type, and wherein each listing associated with the per-hit fee type is associated with at least one per-hit fee value (Figure 7; column 16, line 57, through column 17, line 23; column 21, line 59, through column 22, line 50), but Soulanille does not expressly disclose that there is a minimum bid increment, and that all per-hit fee values are in accordance with the minimum bid increment (although the listings in Figure 7 appear to be in increments of $0.01 bid per hit). However, official notice is taken that it is well known for auctions to have minimum bid increments. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include a minimum bid increment, and have all per-hit fee values be in accordance with the minimum bid increment, for the obvious advantages of increasing the amounts paid as per-hit fees, and avoiding the difficulties of having to deal with tiny fractional payments.

As per claim 28, Soulanille discloses a plurality of tiers, and a plurality of tier processing rules, wherein the number of tiers, it is implied, can differ according to whether there be a sufficient number of paid listings (Figure 7; column 16, line 57, through column 17, line 23; column 21, line 59, through column 22, line 50; see reasoning set forth above with regard to claim 26), and in the system of Soulanille, different users, or the same user, can make different search requests, and receive different responses (implied throughout, e.g., column 8, line 59, through column 9, line 20). Soulanille does not expressly disclose that the tier processing rules differ for

different search requests, but official notice is taken that it is well known to apply different known variations of a technique in different cases; hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to apply different disclosed tier processing rules for different search requests, for such obvious advantages as testing to determine which rules worked best, or applying the set of rules either specifically requested in a particular case, or believed to be most suitable to the circumstances.

As per claim 29, Soulanille discloses an administrator interface (for example, column lines 9-33), but does not disclose that the administrator interface provides for modifying the tier processing rules. However, given the plurality of tier processing rules disclosed by Soulanille, and the application of different processing rules to different requests, as found obvious with regard to claim 28 above, this is held to be obvious, for the motive of accomplishing the application of preferred different rules.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Soulanille et al. (U.S. Patent 7,110,993) as applied to claim 1 above, and further in view of Schena et al. (U.S. Patent Application Publication 2001/0003177). A user of Soulanille's system would have to have some location, and Soulanille's disclosure of a "What City" feature (Figure 7) implies including a location of the user as part of a request, but Soulanille does not disclose that the system automatically includes the user location as part of a request. However, it is well known to automatically include a user location as part of a search request, as taught by Schena (e.g., paragraphs 10, 11, 52, 53, and 54). Hence, it would have been obvious to one of ordinary skill in the art of

electronic commerce at the time of applicant's invention for the system to automatically include the user location as part of the search request, for the obvious advantage of finding potential sellers convenient to the user's location, as in Schena.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Soulanille et al. (U.S. Patent 7,110,993) as applied to claim 31 above, and further in view of Mangold et al. (U.S. Patent Application Publication 2004/0186769). Soulanille does not disclose a variable per-hit fee, but Mangold discloses variable per-hit fees (Abstract; paragraphs 5 and 25). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the per-hit fee to be a variable per-hit fee, for the stated advantage of charging according to the user's location, and thus his presumed likelihood of buying from the advertiser.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Soulanille et al. (U.S. Patent 7,110,993) and Mangold et al. (U.S. Patent Application Publication 2004/0186769) as applied to claim 32 above, and further in view of official notice. Soulanille discloses that the system comprises a number of hits and a time in which to measure said number of hits (e.g., column 19, line 53, through column 20, line 13), but does not disclose that the number of hits and time in which to measure said number of hits influence a variable per-hit fee, nor does Mangold; but official notice is taken that it is well known for a number of hits or period of time to influence a per-hit fee, e.g., fees may be higher for the time before Christmas, when many people are shopping for gifts. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the number of hits or

period of time to influence the variable per-hit fee, for such obvious advantages as charging more during times of the year when advertising is more in demand.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Soulanille et al. (U.S. Patent 7,110,993) as applied to claim 31 above, and further in view of Acres (U.S. Patent Application Publication 2002/0010015). Soulanille does not disclose a variable per-hit fee, but Acres discloses variable per-hit fees (paragraph 6). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the per-hit fee to be a variable per-hit fee for at least the stated advantage of charging in accordance with the demographic value of a user.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Soulanille et al. (U.S. Patent 7,110,993) and Acres (U.S. Patent Application Publication 2002/0010015) as applied to claim 32 above, and further in view of official notice. Soulanille discloses that the system comprises a number of hits and a time in which to measure said number of hits (e.g., column 19, line 53, through column 20, line 13), but does not disclose that the number of hits and time in which to measure said number of hits influence a variable per-hit fee, nor does Acres; but official notice is taken that it is well known for the number of hit or period of time to influence a per-hit fee, e.g., fees may be higher for the time before Christmas, when many people are shopping for gifts. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the number of hits or period of time to

influence the variable per-hit fee, for such obvious advantages as charging more during times of the year when advertising is more in demand.

Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soulanille et al. (U.S. Patent 7,110,993) as applied to claim 1 above, and further in view of Acres (U.S. Patent Application Publication 2002/0010015). As per claim 34, Soulanille does not disclose a plurality of per-hit fee types, but a plurality of per-hit fee types are well known, as taught, for example, by Acres (paragraphs 4, 5, and 6). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the system to comprise a plurality of per-hit fee types, for the obvious advantage of arranging fee types (flat payment per hit, commission on sales, fee depending on user demographics, etc.) most suitable to the circumstances, and accepted as most satisfactory to the advertiser and the search engine owner.

As per claim 35, the plurality of listings in Soulanille necessarily includes a first listing (e.g., as in Figure 7, or column 22, lines 19-33), and if there are a number per-hit fee types, e.g., payment of a flat fee plus a commission on sales, these could all be associated with the first listing as much as with any other listing. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the first listing to be associated with the more than one per-hit fee type, for the obvious advantage of profiting from different fee types, and in particular

because different fee types would add to the effective value of a bid, and thus the incentive to list it first, e.g., a bid of $0.08 per click plus 1% of resulting sales would be more valuable than a bid of $0.08 per click.

Claims 38-47

Claims 38, 39, 40, 41, 42, 44, 45, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soulanille et al. (U.S. Patent 7,110,993) in view of official notice. As per claim 38, Soulanille discloses a system for distributing information, comprising: a depository of information, said depository of information including a plurality of listings (Abstract; Figure 1; column 7, line 4, through column 8, line 3); a server, said server including a request, a response, a plurality of tiers, and a plurality of administrative rules, said plurality of administrative rules including a plurality of placement heuristics response (Abstract; column 9, lines 7-20; column 16, line 57, through column 17, line 23; column 21, line 59, through column 22, line 50; Figure 7; the paid listings from advertisers are regarded as one tier, the unpaid listings following them as a second tier); wherein said server is configured to generate said response from said request by accessing the depository of information and said administrative rules (column 7, lines 15-59; column 8, lines 19-26; column 16, line 57, through column 17, line 23; column 21, line 59, through column 22, line 50); wherein said administrative rules provide for identifying two or more listings in the response as belonging to a first tier; and wherein said administrative rules prioritize said listings within at least the first tier using the plurality of placement heuristics (Abstract; column 16, line 57, through column 17, line 23; column 21, line 51, through column 22, line 50; Figure 7). Soulanille

does not expressly disclose that the administrative rules also prioritize the listings within other tiers, such as the second tier of non-paid listings, although this might be considered inherent, on the grounds that the order of listings in the second tier would have to be selected somehow; but official notice is taken that it is well known to prioritize listings in non-paid tiers returned by search engines (e.g., by apparent relevance to the search terms in a request, as done by Google and others). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the administrative rules to prioritize listings within the plurality of tiers, for the obvious advantage of putting the unpaid listings in a reasonable order, such as most likely to be relevant at the top.

As per claim 39, Soulanille discloses a plurality of tiers including a first tier and a second tier, the plurality of placement heuristics including at least a first placement heuristic ordering listings within the first tier (ibid., as applied to claim 38 above), and a second placement heuristic ordering the listings within the second tier is obvious as set forth above with regard to claim 38 above. If the first heuristic involves the amounts bid for paid listings, as in Soulanille, then the first placement heuristic cannot be identical to the second placement heuristic.

As per claim 40, Soulanille discloses that at least each listing in the first tier of the response is associated with at least one of the priority metrics (Figure 7; column 16, line 51, through column 17, line 23; column 21, line 51, through column 22, line 50). Given a second tier ordered on some basis (e.g., a measure of apparent relevance), it would

follow that each listing in the second tier of the response would also be associated with at least one of the priority metrics.

As per claim 41, Soulanille discloses that the priority metrics influence the administrative rules in selectively identifying listings for inclusion in the (first) tier (ibid., as per claim 40, and especially column 22, lines 34-50).

As per claim 42, Soulanille discloses that the listings are selectively identified for inclusion in the (first) tier in accordance with priority metrics (ibid., as per claim 40, and especially column 22, lines 34-50).

As per claim 45, Soulanille discloses a plurality of listings with associated priority metrics, wherein random selection is employed to determine placement, with an increased probability, but not a certainty, of more favorable placement given to the listings with higher bids/priority metrics (Figure 7; column 16, line 51, through column 17, line 23; column 21, line 51, through column 22, line 50), which would in some cases result in a first listing having a higher priority metric and a second listing being given more favorable placement.

As per claim 44, Soulanille discloses a plurality of rankings, wherein each listing in the response may have can include at least one said ranking, wherein said listings can be ranked in accordance with priority metrics, and wherein the administrative subsystem uses the rankings to selectively identify listings for inclusion in a first tier (Figure 7; column 16, line 51, through column 17, line 23; column 21, line 51, through column 22, line 50).

As per claim 46, Soulanille discloses a plurality of listings with associated per-hit fees, wherein random selection is employed to determine placement, with an increased probability, but not a certainty, of more favorable placement given to the listings with higher per-hit fees (Figure 7; column 16, line 51, through column 17, line 23; column 21, line 51, through column 22, line 50; see also column 19, line 53, through column 20, line 13), which would in some cases result in a first listing having a higher per-hit fee and a second listing being given more favorable placement.

Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Soulanille et al. (U.S. Patent 7,110,993) and official notice as applied to claim 41 above, and further in view of Might et al. (U.S. Patent Application Publication 2003/0177076). Soulanille does not expressly disclose a plurality of groups, each listing associated with at least one group, wherein the affiliations with said groups influence the administrative rules in selectively identifying listings for inclusion in a tier (although the "Select a Category" and "What City?" features in Figure 7 are highly suggestive), but Might teaches a plurality of groups, by category of products, and by geographical location, wherein listings are associated with at least one group, and wherein the affiliations with said groups influence the administrative rules in selectively identifying listings for inclusion in a response (paragraphs 19 and 27). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have a plurality of groups, each said listing associated with at least one group, the affiliations with said groups influencing the administrative rules in selectively identifying

listings for inclusion in a tier, for the obvious advantage of finding businesses conveniently located and selling desired products or services.

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Soulanille et al. (U.S. Patent 7,110,993) and official notice as applied to claim 38 above, and further in view of Littlefield et al. (U.S. Patent 6,564,208). Soulanille discloses a position adjustment factor wherein at least one listing is associated with said position adjustment factor (column 21, line 51, through column 22, line 50). Soulanille does not disclose an enhanced display format, wherein at least one said listing in said response includes said enhanced display format, but Littlefield teaches enhanced display formats, wherein at least one listing in a response includes the enhanced display format (column 3, line 58, through column 4, line 20). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention, for the stated advantages of enticing search engine users to select the search results with enhanced display formats, and profiting from fees for such enhanced displays.

Claims 49-56

Claims 49, 50, 52, 53, 54, 55, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soulanille et al. (U.S. Patent 7,110,993) in view of official notice. As per claim 49, Soulanille discloses configuring a plurality of administrative rules to organize a plurality of listings within a response into at least one tier based on a plurality of tier criteria, wherein the administrative rules include a tier placement heuristic for ordering listings within the tier, wherein not all listings within the response belong to the tier (Abstract; Figure 7; column 16, line 51, through column 17, line 23; column 21,

line 51, through column 22, line 50). Soulanille does not expressly disclose inputting the tier criteria to define the number of tiers in the response and number of listings within the tiers, but as one or more computers apply the administrative rules, including a number of tiers in the response and number of listings within at least one tier (ibid.; column 7, lines 37-59; column 8, lines 19-26), and official notice is taken that it is well known to input programs, files, and particular criteria into computers, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to input the tier criteria, for the obvious advantage of causing the computer to carry out the desired procedures.

As per claim 50, Soulanille discloses multiple types of placement heuristics (column 16, line 51, through column 17, line 23; column 21, line 51, through column 22, line 50), but does not disclose associating a particular type of placement heuristic to coincide with a particular type of request. However, official notice is taken that it is well known to match particular kinds of answers, or particular procedures, to particular kinds of requests. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to associate a particular type of placement heuristic to coincide with a particular type of request, for the obvious advantage of placing listings likely to be of greater interest to the user, or value to advertisers, in more prominent positions (an example would be using placement heuristics which involve geographical categorization in response to search request which include geographical limitations or preferences).

As per claim 52, Soulanille discloses a computer automatically applying rules without human intervention (column 8, lines 19-26), making it obvious to load the necessary computer program, as set forth above with regard to claim 49.

As per claim 53, Soulanille discloses that the administrative rules include a priority metric calculation, wherein the priority metric calculation influences the positioning of said listings in the response (Figure 7; column 16, line 51, through column 17, line 23; column 21, line 51, through column 22, line 50).

As per claim 54, Soulanille discloses that listings are selectively placed into one of a plurality of tiers in accordance with the priority metric calculations associated with the listings (Figure 7; column 16, line 51, through column 17, line 23; column 21, line 51, through column 22, line 50).

As per claim 55, Soulanille discloses that the administrative rules can provide that listings belonging to the same tier are ordered in a random fashion (column 21, line 51, through column 22, line 50).

As per claim 56, Soulanille discloses that the administrative rules can provide that listings belonging to the same tier are ordered in a random weighted fashion that is influenced by the corresponding priority metrics (column 21, line 51, through column 22, line 50).

Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Soulanille et al. (U.S. Patent 7,110,993) and official notice as applied to claim 49 above, and further in view of Might et al. (U.S. Patent Application Publication 2003/0177076). Soulanille appears to provide for a plurality of request types, because of the "Select a

Category" and "What City" features in Figure 7, and Soulanille provides for (b) a national request constrained by name (Figure 7; column 16, line 51, through column 17, line 23; the name being a term like "zip drive"). Might teaches using category and geographic area to constrain requests (paragraphs 19 and 27), implying at least (a) a national request constrained by category and (c) a local request constrained by name. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the system to provide for a plurality of request types including at least two of those listed, for the obvious advantage of finding conveniently located businesses selling desired products or services.

Statement Regarding IDS's

Examiner has considered Applicant's Information Disclosure Statements, concerning which he wishes to make the following comments of record: On the IDS of March 15, 2004, U.S. Patent 4,789,235 is listed with "Bora" as the patentee; the patent itself says "Borah". U.S. Patent 5,305,195, is listed with the patentee as "5,305,195"; the patent is actually to Murphy. U.S. Patent 5,704,560, to Del Monte, is listed; that patent is actually to Wimmer, and Examiner has additionally considered U.S. patent 5,704,060, which is to Del Monte. The WIPO document to Maxygen, Inc., is incorrectly listed as WO 00/41090. That should be WO 00/04190, and is listed correctly on the IDS of October 24, 2005. "Citysearch.com" is listed on the IDS, but was not found in the electronic file; Examiner has copied it from the file for parent case 10/680,952, and made it of record in the instant file.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bourdoncle et al. (U.S. Patent Application Publication 2002/0052894) disclose a searching tool and process for unified search using categories and keywords. Hagen (U.S. Patent Application Publication 2002/0120506) discloses a classified ads software program. Kadayam et al. (U.S. Patent Application Publication 2003/0212673) disclose a system and method for retrieving and organizing information from disparate computer network information sources. Gupta et al. (U.S. Patent Application Publication 2004/0254932) disclose a system and method for providing preferred country biasing of search results. Risvik et al. (U.S. Patent Application Publication 2005/0102270) disclose a search engine with hierarchically stored indices. Faber et al. (U.S. Patent Application Publication 2005/0119957) disclose a method and apparatus for prioritizing a listing of information providers. Payne et al. (U.S. Patent Application Publication 2005/0154718) disclose a system and method for optimizing search result listings.

The anonymous article, "Google Launches Self-Service Advertising Program; Google's AdWords Program Offers Every Business a Fully Automated, Comprehensive and Quick Way to Start an Online Advertising Campaign," discloses advertising on the Google search engine. Hansell ("Clicks for Sale; Paid Placement Is Catching on in Web Searches") discloses paying for placement on search engines. The anonymous article, "Northern Light Teams with Search4Science, University of Pennsylvania," discloses means for searching by category, keyword, etc. Woods ("Internet Update") discloses

search results in clusters (which could be called tiers). The anonymous article, "Google Introduces New Pricing for Popular Self-service Online Advertising Program; Highly Targeted Text-based Ads Complement Google's Objective Search Results," discloses placement of paid and unpaid or less paid listings, as does Fleishman ("Technology Briefing Internet: Google Adds Ad Option"). The anonymous article, "Google Does Well Despite Not Taking Paid Placements," discloses Google's procedures. Ostrom ("New Web Portal Has Text-only Ads MyWay Seeks to Lure Visitors from Bolder Sites Such as Yahoo") discloses tiers of sponsored listings and non-sponsored web listings. The anonymous article, "Advertisers Attack Google over Adwords Enhancement," discloses advertisers paying for their ads to appear in a tier of advertisement links.

Schut ("AutoFact '91: News in CAD/CAM, CIM & Rapid Prototyping") and Rajghatta ("US Voices Its Concern over Violence in Gujarat") are two prior art references using the term "catkey"; it is noted that they appear to use it in quite different ways, and without defining it.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith, can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nicholas D. Rosen

NICHOLAS D. ROSEN
PRIMARY EXAMINER

November 10, 2006